

Arizona Criminal Justice Commission

Statistical Analysis Center Publication

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The Reporting of Sexual Assault in Arizona: 2006 and 2007

2008

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Executive Summary

Arizona Revised Statute (ARS) 41-2406.B, which became law in July 2005, requires the Arizona Criminal Justice Commission (ACJC) to maintain information on sexual assault, sexual assault of a spouse, and the false reporting of sexual assault as it appears on arrest and disposition reporting forms submitted to the Arizona Department of Public Safety (DPS). In turn, ACJC is required to provide an annual report containing this information to the governor, the president of the senate, the speaker of the house, the secretary of state, and the director of the Arizona state library, archives, and public records. The report is to include the total number of police reports, charges, convictions, and sentences for sexual assault and the number of police reports, charges, convictions and sentences for sexual assault involving a spouse, including whether or not the victim and the victim's spouse were estranged at the time of the assault. Additionally, the report is to contain the number of charges, convictions, and sentences for false reports of sexual assault involving a spouse.

This examination of the information mentioned above concentrates on data from 2006 to 2007 and incorporates updated data from *The Reporting of Sexual Assault in Arizona: 2004 and 2005* report. The arrest, conviction, and sentencing data come from an extract from the Arizona Computerized Criminal History (ACCH) record system provided by DPS to ACJC in June 2008. The data in ACCH are based on arrest and disposition reporting forms submitted to DPS by local law enforcement, prosecutors, and the courts.

Sexual Assault

Based on arrest and disposition reporting forms submitted to DPS and entered into the ACCH record system, in 2006 there were 299 sexual assault arrest reports submitted that comprised a total of 548 charges (a single arrest report may include multiple charges). Of these 548 charges, 133 convictions were obtained, with 112 of the convictions upholding the original charge of sexual assault. The sentences imposed on convicted sexual assault offenders included: 88 sentences to probation, 59 sentences to prison, 45 convictions resulting in a suspended sentence, eight sentences to jail, two fines, one assigned to community service, and 30 other undefined sentences.

In 2007, there were 271 sexual assault arrest reports submitted, which included 517 charges of sexual assault. At the time the data was extracted from ACCH, 103 convictions were obtained, 87 for the original charge of sexual assault. The sentences received by offenders convicted of sexual assault included the following: 68 sentences of probation, 39 resulting in a suspended sentence, 39 sentences to prison, two fines, one sentence to jail, one sentence for restitution, and 27 undefined sentences. It is important to note that many of the cases from November and December where suspected offenders were charged with sexual assault may not have reached final disposition by the end of May 2008.

False Reporting of Sexual Assault Involving a Spouse

As of July 25, 2005, the false reporting of a sexual assault involving a spouse (ARS 13-2907.03) became a part of the Arizona criminal code. Even though false reporting of a sexual assault involving a spouse is now a specific crime in Arizona's criminal code, there were no charges of false reporting of sexual assault involving a spouse in 2006 and 2007. There were 5,902 charges of false reporting of an offense to law enforcement in 2006 and 5,713 reported in 2007. It is possible that a subset of these charges were for the false reporting of sexual assault involving a spouse, yet the information obtained does not contain that level of specificity.

Sexual Assault of a Spouse

One of the requirements of ARS 41-2406.B is to report the number of arrests, convictions, and number and type of sentences for cases involving the sexual assault of a spouse. In July 2005, Senate Bill 1040 repealed ARS 13-1406.01, which allowed for an offender to be specifically charged with sexual assault of a spouse. In the absence of a specific statute for sexual assault of a spouse in Arizona's criminal code, the disposition reporting form currently used does not contain the information necessary for ACJC to report all of the information required under ARS 41-2406.B. Despite the discontinuation of ARS 13-1406.01 as a criminal code, two cases of sexual assault of a spouse were reported in 2007 using this repealed code.

In addition to reporting information on sexual assaults of a spouse, ARS 41-2406.B requires ACJC to report, in cases of sexual assaults involving a spouse, whether the victim and offender were estranged at the time of the offense. Except for a general indication of whether an offense involved domestic violence, there is no field on the disposition reporting form that describes the relationship between victim and offender.

Additional Barriers to Meeting ARS 41-2406.B Requirements

Criminal history records that are created through the submission of arrest and disposition reporting forms continue to face obstacles with regard to record timeliness, accuracy and completeness. As of 2008, the United States Department of Justice, Office of Justice Programs, through the Bureau of Justice Statistics, has invested more than \$523 million in National Criminal History Improvement Program (NCHIP) funds since the program's inception in 1995. ACJC, in conjunction with many state and local agencies throughout Arizona, continue to work diligently to improve the quality of criminal history records throughout each step in the process. Improved criminal history records information is not only critical to utilizing that information to understand Arizona's criminal justice system, more important, it is critical to effective criminal justice system decision-making and officer safety.

Introduction

Arizona Revised Statute (ARS) 41-2406.B requires the Arizona Criminal Justice Commission (ACJC) to maintain information gleaned from arrest and disposition reporting forms provided by the Arizona Department of Public Safety (DPS) on sexual assaults pursuant to section 13-1406 and false reporting of sexual assault pursuant to section 13-2907.03. The number and type of police reports filed, the number and type of charges filed, and the number of convictions that are obtained are to be included in this information. Pursuant to ARS 41-2406.D, ACJC is required to submit a report on an annual basis, the contents of which are described in 41-2406.B, to the governor, the president of the senate, and the speaker of the house. Additionally, a copy of the report is to be provided to the secretary of state and the director of the Arizona state library, archives, and public records.

The arrest and disposition reporting forms used by local criminal justice agencies to report arrests and subsequent criminal justice system activity do not contain all the information needed to meet the requirements of ARS 41-2406.B. Although part of the Arizona criminal code in 2004 and 2005, ARS 13-1406.01, indicating sexual assault of a spouse, was removed from the criminal codes by 2006. Additionally, the quality of the records in the Arizona Computerized Criminal History (ACCH) repository, which is populated by information from the arrest and disposition forms referenced in ARS-2406.B, presents obstacles to complete and accurate reporting of criminal justice system activity.

Although the arrest and disposition reporting forms do not contain all of the information necessary to provide a complete and accurate reporting of arrests and subsequent criminal justice system activity on an annual basis, in this report ACJC provides the information that is available on the number of arrests for sexual assault, the number of charges that are filed and what charges are filed, the number of convictions obtained, and the sentences that are imposed for each conviction.

Reporting Requirements

ARS 41-2406.B requires DPS to provide to ACJC "each applicable disposition reporting form relating to sexual assaults pursuant to section 13-1406 and false reporting of sexual assault pursuant to section 13-2907..." In turn, ARS 13-2406.B (1-4) requires ACJC to, "...maintain the following records regarding sexual assaults pursuant to section 13-1406 and false reporting of sexual assault pursuant to section 13-2907 that are submitted to the Commission by the Department of Public Safety: 1) The number of police reports that are filed; 2) The number of charges that are filed and what charges are filed; 3) The number of convictions that are obtained; 4) The sentences that are imposed for each conviction."

ARS 41-2406 goes on to state that:

"...The records shall identify the total number of police reports, charges, convictions and sentences for all sexual assaults and the number of police reports, charges, convictions and sentences for those sexual assaults that involved a spouse. For those sexual assaults that involved a spouse, the report shall identify whether the victim and the victim's spouse were estranged. The records shall also identify the total number of police reports, charges, convictions and sentences for all false reports that are related to sexual assault of a spouse pursuant to section 13-2907.03."

Building on the previous year's report, this report contains all available ACCH data on arrest reports, charges, convictions, and sentencing information for sexual assaults and the false reporting of sexual assault of a spouse that occurred in calendar years 2006 and 2007. The information in the ACCH replicates the information from the arrest and disposition reporting forms submitted by local law enforcement, prosecutors, and the courts. The ACCH data used for this report was extracted by DPS at the end of May 2008.

2006 data

This report begins with sexual assault arrest data from calendar year 2006. It is assumed that by April 2008, the majority, if not all charges originating in 2006, would have reached final case disposition. Table 1 summarizes the available data on arrests and dispositions for sexual assault in 2006.

Sexual Assault

Based on arrest reporting forms submitted to DPS, in 2006 there were 299 sexual assault police reports filed with DPS that included at least one charge of sexual assault. A total of 284 individuals accounted for the 299 reports filed for sexual assault. Thus, 13 individuals were arrested twice in 2006 for a sexual assault while one individual was arrested three times that year. Overall, the 284 individuals arrested were responsible for 548 charges of sexual assault.

Of the 548 charges for sexual assault submitted to DPS in 2006, 133 resulted in convictions. A total of 112 of these convictions were for the original charge of sexual assault. The other 21 convictions recorded were for aggravated assault, kidnapping, sexual abuse, sexual conduct with a minor, molestation of a child, failure to appear in court, hindering prosecution, and unlawful prescription drug use/possession.

Of the remaining 415 charges, 137 were dismissed by the court, 66 were reported as no complaint filed, 15 were acquitted, one was reported as a nolo contendere plea, two were not referred for prosecution, six resulted in a plea to other charges, and the remaining 188 charges had no final disposition information entered into ACCH.

Table 1. Sexual Assault, 2006	
Number of police reports (i.e., arrest reports) filed with DPS that included a charge of sexual assault	299
Number of charges filed for sexual assault	548
Number of convictions for sexual assault	112
<i>Types of Sentences</i>	
Fine	2
Probation	88
Jail	8
Prison	59
Community Service	1
Restitution	0
Suspended Sentence	45
Other	30

Sexual Assault of a Spouse

As of 2006, Arizona Revised Statutes no longer include a specific charge for sexual assault of a spouse. Therefore, ACCH data is not equipped at this time to provide information regarding sexual assault of a spouse and whether the victim and offender were estranged at the time of the incident.

False Reporting of Sexual Assault Involving a Spouse

During calendar year 2006, there were no charges of false reporting of sexual assault involving a spouse. It is important to note that false reporting of sexual assault involving a spouse (ARS 13-2907.03) did not become law until July 25, 2005. Prior to this date, Arizona's criminal justice system did not have the ability to charge an alleged offender specifically with the false reporting of sexual assault involving a spouse. Some cases from 2006 may still be reported under ARS 13-2907.01, which is the charge of false reporting to law enforcement agencies.

2007 Data

The following data is provided for all sexual assault cases where an arrest was made during calendar year 2007. ACJC staff received the ACCH extract for analysis in the beginning of June 2008, so completed disposition information is only provided through the middle of May 2008. Thus, some November arrests and all December arrests from

2007 were given less than 180 days for completion of the case disposition. All sexual assault cases are permitted up to 180 days for disposition completion of the case as mandated by Rule 8.2 of the Arizona Rules of Criminal Procedure.

Sexual Assault

Based on arrest reporting forms submitted to DPS in 2007, a total of 271 sexual assault police reports were filed in the ACCH (Table 2). Of the 271 reports, 255 different individuals were charged with sexual assault. Of these 255 individuals, 16 individuals were arrested more than once in 2007 for sexual assault. The 255 individuals arrested for sexual assault in 2007 were responsible for a total of 517 charges of sexual assault.

Table 2. Sexual Assault, 2007 *	
Number of police reports (i.e., arrest reports) filed with DPS that included a charge of sexual assault	271
Number of charges filed for sexual assault	517
Number of convictions for sexual assault	87
<i>Types of Sentences</i>	
Fine	2
Probation	68
Jail	1
Prison	39
Community Service	0
Restitution	1
Suspended Sentence	39
Other	27

* Data was collected in June 2008, meaning that all 2007 charges were given until May 2008 for disposition completion. Typically, agencies have 180 days to dispose of conviction and sentencing data of sexual assault cases to the ACCH repository.

Of the 517 charges for sexual assault submitted to DPS, 103 resulted in convictions. Of the 103 convictions, 87 were for the original charge of sexual assault. The other 16 convictions obtained were for aggravated assault, kidnapping, sexual abuse, sexual conduct with a minor, and child or vulnerable adult abuse.

Of the remaining 414 charges, 107 were dismissed by the court, 48 were reported as no complaint filed, two resulted in acquittal, two resulted in a plea of nolo contendere, two were not referred for prosecution, three were pled to other charges, and the remaining 250 were missing final case disposition information. It is likely that many of the cases that were missing disposition information had charges of sexual assault filed, but had not yet reached a conclusion.

Sexual Assault of a Spouse

Once again, no Arizona Revised Statute criminal code existed for sexual assault of a spouse in 2007. Nonetheless, two charges were reported in 2007 under the repealed ARS 13-1406.01 criminal code. It is impossible to tell whether these are all of the sexual assaults involving a spouse, so no decisive data can be provided in this section.

False Reporting of Sexual Assault Involving a Spouse

During calendar year 2007, there were zero charges of false reporting of sexual assault involving a spouse found in ACCH. It may be reasonable to deduce that these cases might be reported as false reporting to law enforcement agencies (ARS 13-2907.01).

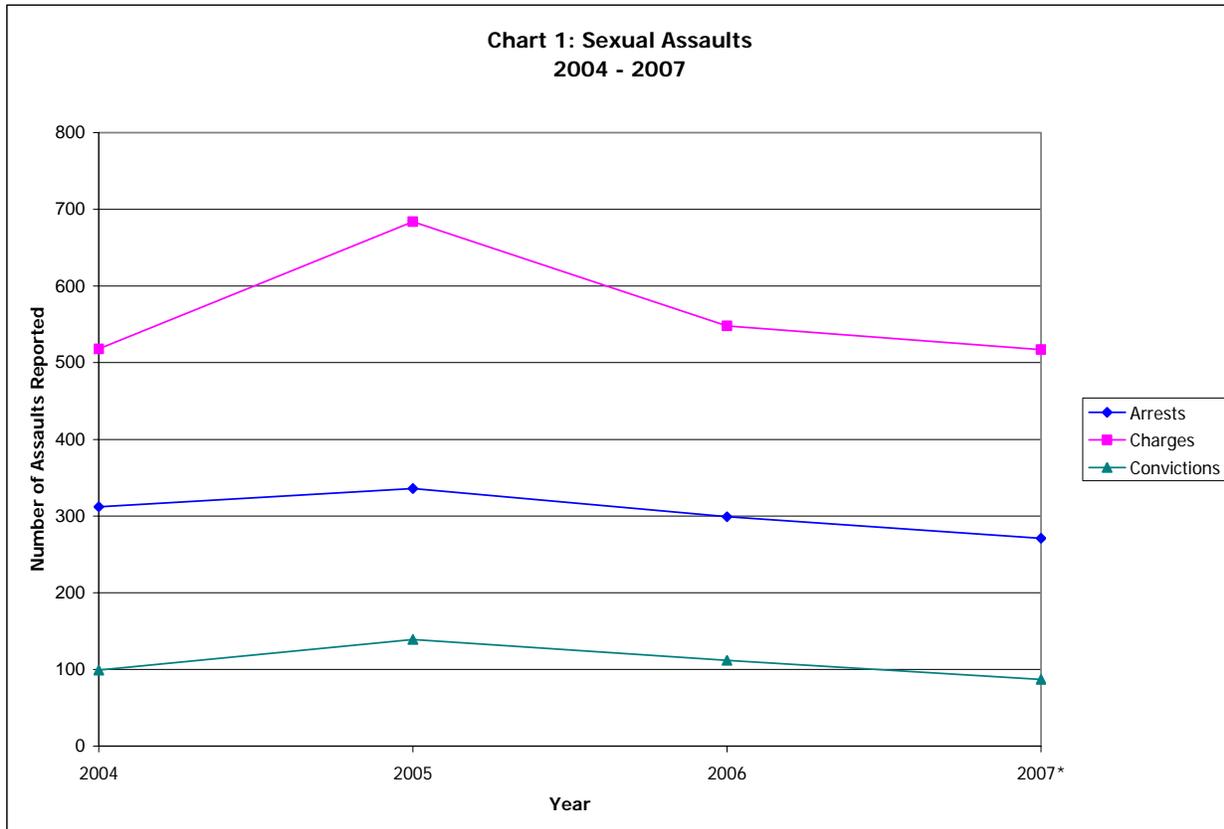
Trends in the Data, 2004-2007

In addition to updating Tables 1 and 2 for 2006 and 2007, this report includes a four-year trend analysis of the arrest, charge, conviction, and sentencing data from 2004 to 2007. This additional perspective helps to visualize the trend of sexual assault reporting over time.

Sexual Assault Arrests, Charges, and Convictions

An increase in arrests, charges and convictions took place from 2004 to 2005, but all three decreased from 2005 to 2007 (Chart 1). Charges for sexual assault totaled 518 in 2004, increased to 684 in 2005, and dropped to 517 by 2007. Arrests were much more stable starting at 312 in 2004 and ending with 271 in 2007. Convictions followed suit beginning at 99 reported in 2004 and ending just below at 87 convictions for sexual assault by 2007.

It is important to remind the reader again that convictions in 2007 may be lower than other years because case disposition data were obtained before the full 180 day limitation to submit a disposition had passed.

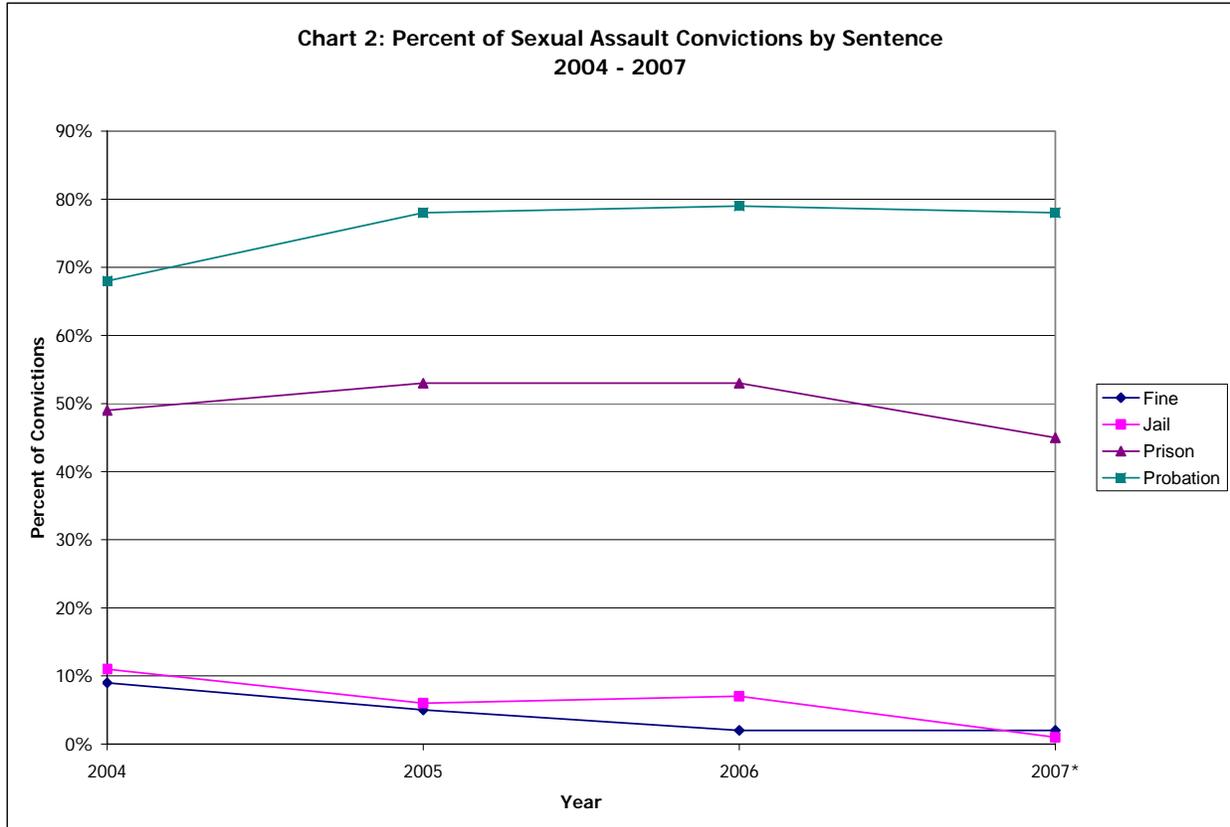


* It is important to note that disposition information may be missing for November and December charges that were given less than the maximum 180 days for disposition completion.

Sexual Assault Sentencing

ACCH data provides sentencing information on eight different categories, as was seen in Tables 1 and 2. For the purposes of the Charts 1 and 2, only the four most prominent sentence types, fine, jail, prison and probation sentences, are included in the analysis. Each sentence is specific to each sexual assault charge, and a case involving multiple charges of sexual assault may include more than one sentence type.

Chart 2 shows the trends for each of four sentences resulting from the sexual assault convictions from 2004 to 2007. In 2004, 68 percent of convictions resulted in a probation sentence, 49 percent of convictions led to prison sentences, 11 percent of convictions were for jail sentences, and 9 percent of convictions resulted in a fine. By 2007, probation accounted for 78 percent of the sentences, which is a 10 percent increase over the four years. Prison sentences dropped to 45 percent of convictions while jail sentences also fell by 10 percent to merely 1 percent of the conviction sentences. Fines dropped to 2 percent of conviction sentences.



* It is important to note that disposition information may be missing for November and December charges that were given less than the maximum 180 days for disposition completion.

Discussion

Utilizing information gleaned from disposition reporting forms and the criminal history records they create is a promising strategy for understanding patterns of criminal offending, re-offending (i.e., recidivism), and the performance of the criminal justice system. Unfortunately, not all of the information needed to fully meet the requirement of ARS 41-2406.B is captured by the disposition reporting forms currently in use by Arizona's criminal justice system and entered into the ACCH repository. This directly applies to the requirement in ARS 41-2406.B that the records "shall identify...those sexual assaults that involved a spouse." The relationship between victim and offender (i.e., strangers, friends, married, etc.) is not a specific field on the disposition reporting form. In the absence of a specific statute in Arizona's criminal code that law enforcement can use to charge an alleged offender with sexual assault of a spouse (ARS 13-1406.01 previously served this purpose but was repealed by Senate Bill 1040 in July 2005), a victim-offender relationship field would be necessary to obtain the required information. Although there is a field that allows law enforcement to indicate whether a crime involves domestic violence, according to ARS 13-3601, a crime of domestic violence is not restricted to instances where the victim and offender are married and can include any of the following:

- The relationship between the victim and the defendant is one of marriage or former marriage or of persons residing or having resided in the same household;
- The victim and the defendant have a child in common;
- The victim or the defendant is pregnant by the other party;
- The victim is related to the defendant or the defendant's spouse by blood or court order as a parent, grandparent, child, grandchild, brother or sister, or by marriage as a parent-in-law, grandparent-in-law, stepparent, step-grandparent, stepchild, step-grandchild, brother-in-law or sister-in-law; or
- The victim is a child who resides or has resided in the same household as the defendant and is related by blood to a former spouse of the defendant or to a person who resides or who has resided in the same household as the defendant.

Another limitation of the disposition reporting forms as a source of the information required in ARS 41-2406.B is the absence of a field that describes whether married victims and offenders are estranged. Because there is no field on the disposition reporting form that allows law enforcement to indicate that the victim and offender are married, it is not surprising that there is also no field on the disposition reporting form to indicate if they were estranged.

Further complicating ACJC's ability to accurately report all of the information required by ARS 41-2406.B, specifically the information on false reporting of sexual assault involving a spouse, are the fingerprinting requirements as described in ARS 41-1750 that initiate a new or revised criminal history record. Although individuals arrested for sexual offenses are required by law to be fingerprinted and the record of the arrest submitted to ACCH, law enforcement is not required to fingerprint individuals arrested for misdemeanor offenses that are not a violation of ARS title 13, chapter 14 (i.e., sexual offenses), title 28, chapter 4 (i.e., driving under the influence), or domestic violence offenses as defined in section 13-3601. A first charge of false reporting of a sexual assault involving a spouse is a class one misdemeanor and is not one of the offense types that require fingerprints. Therefore, the arrests in ACCH may be an undercount of the number of false reports of sexual assault involving a spouse.

Finally, there is a well documented need for state criminal justice systems to improve the quality of information in their criminal history records repository (in Arizona, ACCH). Recognizing the limitations and the importance of good criminal history record information, the United States Department of Justice, Office of Justice Programs, through the Bureau of Justice Statistics, has invested more than \$523 million in National Criminal History Improvement Program (NCHIP) funds since 1995 to enhance the quality, completeness, and accessibility of state criminal history record information. Although Arizona has obtained \$9.2 million in NCHIP funds since 1995, like all other states in the country, the need still remains for Arizona to improve the quality of criminal history record information. The number of missing case disposition information for sexual assault arrests in 2006, more than one year later, illustrates just one aspect of Arizona's criminal history record information that requires improvement.